IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7260 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAJPIPLA GROUP CO-OP MULTIPURPOSE SOCIETY LTD

Versus

SHIVLAL TRIBHOVANDAS PATEL

Appearance:

MR RM VIN for the Petitioner
MR JAYESH A DAVE for Respondent No. 1
Respondent No. 2 served

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 03/02/2003

ORAL JUDGEMENT

The petitioner before this Court is a cooperative

society (hereinafter referred to as 'the Society'). The Society challenges the judgment and order dated 15th October, 1994 passed by the Gujarat State Cooperative Tribunal in Appeal No.452/1993.

It appears that the respondent herein was then the Chairman of the Society. It is the claim of the Society that as a Chairman the respondent had purchased certain goods from the Society on credit. However, he did not pay the dues thereof. The Society, therefore, complained to the Registrar and, an inquiry under Section 93 of the Gujarat Cooperative Societies Act, 1961 (hereinafter referred to as 'the Act') was ordered. The Inquiry Officer, under his report dated 12th July, 1993, opined that the amounts in question were due and payable by the respondent. Feeling aggrieved, the respondent preferred the above referred Appeal No.452/1993 before the Tribunal. The said Appeal was allowed on 15th October, 1994. Feeling aggrieved, the Society has preferred the present petition.

Mr.Vin has relied upon the two receipts issued to the respondent (pages 24 and 25). In the submissions of Mr.Vin, the said receipts represent the outstanding dues of the respondent, which have wrongly been not believed by the Tribunal. Mr.Vin has submitted that if those receipts represent the outstanding amount against the respondent, the respondent ought to have been held liable to pay the said sums with interest thereon.

The Tribunal below has considered the evidence on record. The Tribunal has also considered the above referred two receipts and has held that the said receipts are not in respect of the goods purchased by the respondent on credit. In my view, the Tribunal has correctly held that such receipts are issued to record the receipt of cash. Such receipts would not be issued when the goods are sold on credit. The Tribunal has rightly held that the said two receipts did not represent the amount due and payable by the respondent. In any view of the matter, in exercise of supervisory jurisdiction under Article 227 of the Constitution of India, this Court is not supposed to reappreciate the evidence and substitute the findings recorded by the Tribunal below. The petition is solely based on the above referred finding of fact. No question of law has been raised in the present petition. As recorded hereinabove, the finding of fact recorded by the Tribunal does not warrant interference.

In the result, the petition is dismissed. Rule is

discharged.

(Ms. R.M. Doshit, J.)

/sakkaf